

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 18TH SEPTEMBER 2007 / 27TH BHADRA 1929

Crl.MC.No. 2918 of 2007()

ST.508/2006 of JUDL.MAGISTRATE OF FIRST CLASS, MAVELIKKARA

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PETITIONER: ACCUSED

MUBARAK @ MUJEEB, AGED 25 YEARS,
S/O.SIDDQUE RAWTHER, CHITTU VILAYIL,
MEKKU MURI, THAMARAKKULAM VILLAGE, MAVELIKKARA.

BY ADV. SRI.R.SUNIL KUMAR
SMT.A.SALINI LAL

RESPONDENTS:

1. STATE OF KERALA REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.
2. SHAJAHAN, AGED 33 YEARS,
S/O.BASHEER RAWTHER, MAMMOOTTIL MEKKU,
MEKKU MURI, THAMARAKKULAM VILLAGE, MAVELIKKARA.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 18/09/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R.BASANT, J.

Crl.M.C.No.2918 of 2007

Dated this the 18th day of September 2007

O R D E R

The petitioner faces indictment in a prosecution under Section 138 of the Negotiable Instruments Act. Cognizance has already been taken. The matter was referred to the Lok Adalath. The petitioner had to appear before the Lok Adalath on 22/6/2007. But the petitioner could not appear before the Lok Adalath on that day. The learned Magistrate has issued non-bailable warrant against the petitioner. The petitioner finds such warrant of arrest issued by the learned Magistrate chasing him. The matter now stands posted to 24/9/2007.

2. According to the petitioner, he is absolutely innocent. His absence on 22/6/2007 was not wilful or deliberate. The petitioner is willing to surrender before the learned Magistrate and seek regular bail. But he apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. He, therefore, prays that directions under Section 482 Cr.P.C. may be issued to the learned Magistrate to release the petitioner on bail when he appears and applies for bail.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate, the circumstances under which he could not earlier appear before the learned Magistrate. I find absolutely no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioner on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific directions appear to be necessary. Sufficient general directions have been issued in Alice George vs. Deputy Superintendent of Police [2003(1)KLT 339].

4. In the result, this Criminal Miscellaneous Case is dismissed but with the specific observation that if the petitioner surrenders before the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself .

Hand over copy of this order to the learned counsel for the petitioner.

(R.BASANT, JUDGE)

jsr

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007